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Refund
11-07-03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

A. David Johnson et. al.

Serial No.: 09/902,856

Filing Date: July 10, 2001

Attorney Docket No. A-70170

Mail Stop 16

Director of the US Patent and Trademark Office

P. O. Box 1450

Alexandria, VA 22313-1450

REQUEST FOR REFUND

Applicant respectfully requests a refund in the amount of \$465 in the above application.

The application was unintentionally abandoned for failure to file a timely response.

Applicant filed a Petition for extension of time with extension fees totaling \$465.

This was supplemented with a Petition To Revive under 37 CFR 1.137(b) together with a \$650 petition fee.

In an ON PETITION decision (copy enclosed) dated July 29, 2003 the Petitions Examiner granted the Petition to Revive and held that Applicant could request a refund of the \$465 since it was submitted after the maximum period for reply.

Accordingly, a refund to Applicant of the \$465 is solicited.

Date: Oct 27, 2003

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OFFICE OF PETITIONS

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A. David Johnson et al
Application No. 09/902,856
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ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 30, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 3, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 4, 2003.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$465.00 extension of time submitted on April 28, 2003 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to Technology Center AU 1742.

Wan Laymon
Wan Laymon

Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy